

CITY OF DULUTH

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 14-039	Contact	Steven Robertson; 218 730 5295	
Application Type	Vacation of Street Easement (Alley)	Planning Commission Date	May 13, 2014	
Deadline for Action	Application Date	April 8, 2014	60 Days	June 7, 2014
	Date Extension Letter Mailed	April 22, 2014	120 Days	August 6, 2014
Location of Subject	Alley between Oregon Ave. and S. Arlington Ave.			
Applicant	Kwik Trip	Contact	715-235-6626	
Agent	Scott Teigen	Contact	steigen@kwiktrip.com	
Legal Description	010-0880-00200			
Site Visit Date	May 5, 2014	Sign Notice Date	April 28, 2014	
Neighbor Letter Date	April 24, 2014	Number of Letters Sent	36	

Proposal

Applicant is proposing a vacation of an improved street (alley) easement of the easternmost 175 feet by 20 foot wide alley between Oregon Ave. and S. Arlington Ave. which runs parallel to West Central Entrance and W. Palm St. This section of the alley will be replaced by a 125 foot by 25 foot alley that runs onto West Palm St.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Central Business Secondary
North	MU-C	Commercial	Central Business Secondary
South	R-1	Residential	Central Business Secondary
East	MU-C	Commercial	Central Business Secondary
West	R-1/MU-C	Residential/Commercial	Central Business Secondary

Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements require a Planning commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the council.

Code requirements are found in UDC Section 50-37.6. The Planning Commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway, or easement proposed for vacation:

- 1) Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

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Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Central Business Secondary- An area adjacent to and supporting the primary central business area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

Governing Principle #1: Reuse previously developed lands.

Governing Principle #7: Create and maintain connectivity.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

- 1) Applicant is proposing a vacation of an improved street (alley) easement of the easternmost 175 feet by 20 foot wide alley between Oregon Ave. and S. Arlington Ave. which runs parallel to West Central Entrance and W. Palm St. This section of the alley will be replaced by a 125 foot by 25 foot alley that runs onto West Palm St.
- 2) The portion of the right of way requesting to be vacated is currently improved and used by the public. To the citizen on the ground, the alley appears to run for approximately five blocks, but it is actually broken up in several places by structures and lack of continuous dedicated right of way. In the specific area of the vacation request, the alley does not run any further to the east, and runs an additional 1/2 block to the west before ending.
- 3) The applicant owns the land surrounding the proposed vacation area. The applicant intends to replace the vacated 20 foot alley with a new dedicated 25 foot alley, built to city standards. The new stub will travel north to south (instead of east to west) to West Palm Street, starting at a point about middle of the block.
- 4) This vacation, if approved, will not deprive any currently platted lots of access to a public right of way.
- 5) Staff believe this right of way, if an alley is rededicated, is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city (as long as an easement is maintained); the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
- 6) No comments from the public concerning the vacation. City engineer stated that the applicant must relocate existing gas and sewer main at their expense. In addition, City Engineering must review and approve the utility plans, and the utilities must be relocated before engineering will sign off on the building permit. Finally, the new alley must be constructed to city standards and approved by the City Engineer. MN Power has current utilities in alley to be vacated; they have requested that utility relocation or alteration associated with this vacation and rededication be paid for at the applicant's expense. They have asked the applicant pay the estimated relocation/alteration expenses before MN Power will relocate any of its line facilities.
- 7) Vacations of streets typically lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. In this case, since there are existing lines that need to be relocated and that will take additional time, the City Council will be asked to make a motion on the vacation petition, but the vacation will not be recorded at the County until all the conditions in number 6 above have been met.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Staff recommends that the Planning Commission recommend approval to the City Council, based on the findings above, that the petitioned alley be vacated and an alley/street easement be granted to the City with the following condition:

- 1) Applicant must relocate existing gas and sewer main at their expense.
- 2) Applicant must secure City Engineering approval of proposed utility plans. City Engineering will not sign off on the building permit until utilities have been relocated to City's standards.
- 3) Applicant must construct new alley to city standards and be approved by the City Engineer.
- 4) Applicant must relocate Minnesota Power utilities at their expense.
- 5) The existing alley shall be accessible by the public until the new alley is accepted by the City.

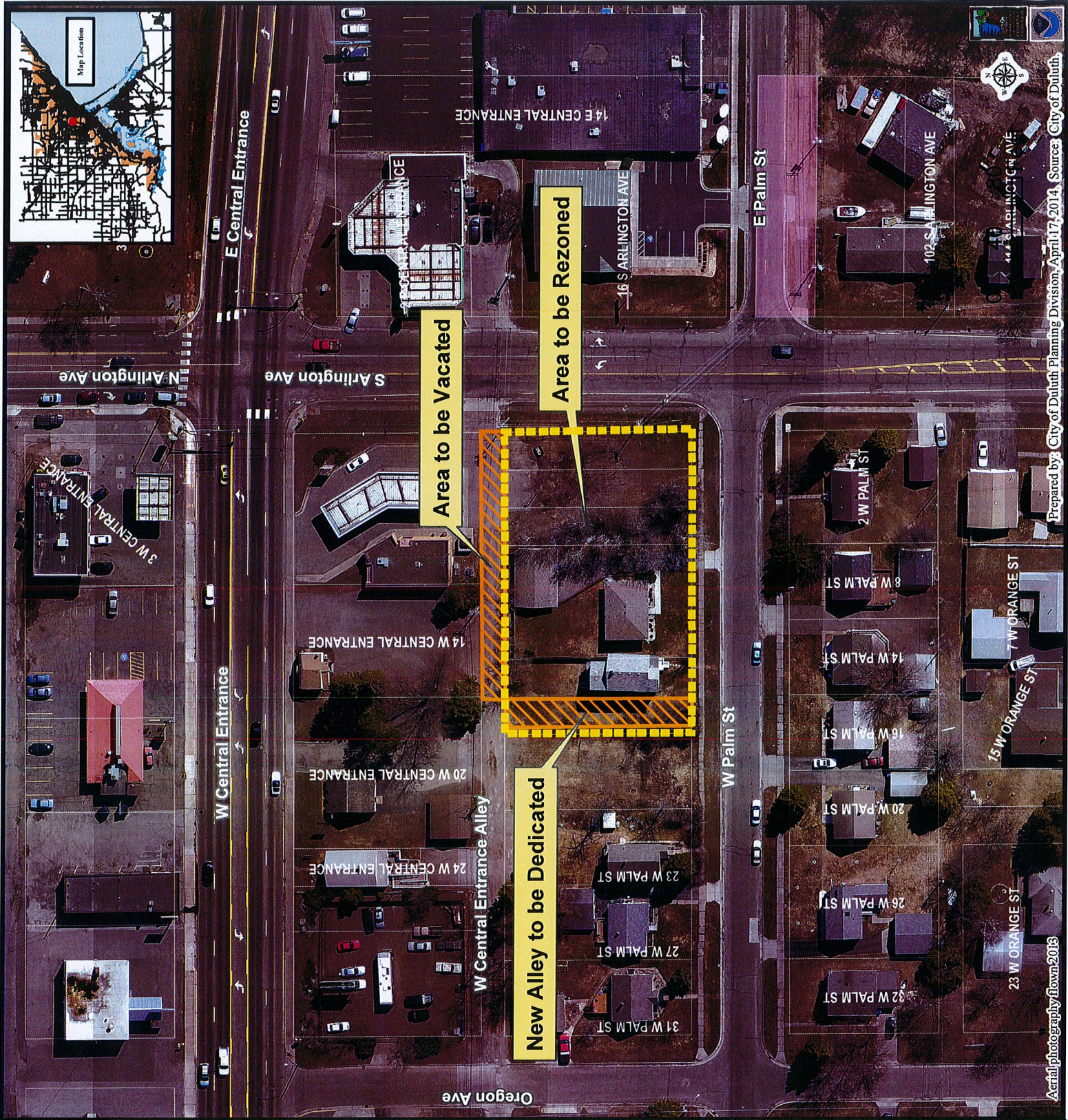
C-2

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning

PL 14-038 and 14-039
9 W Palm St



The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

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Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, April 17, 2014. Source: City of Duluth.



Aerial photography flown 2011


Legend


Right-of-Way Type

..... Road or Alley ROW

 Vacated ROW

Easement Type

 Utility Easement

 Other Easement

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Subdivision Boundaries

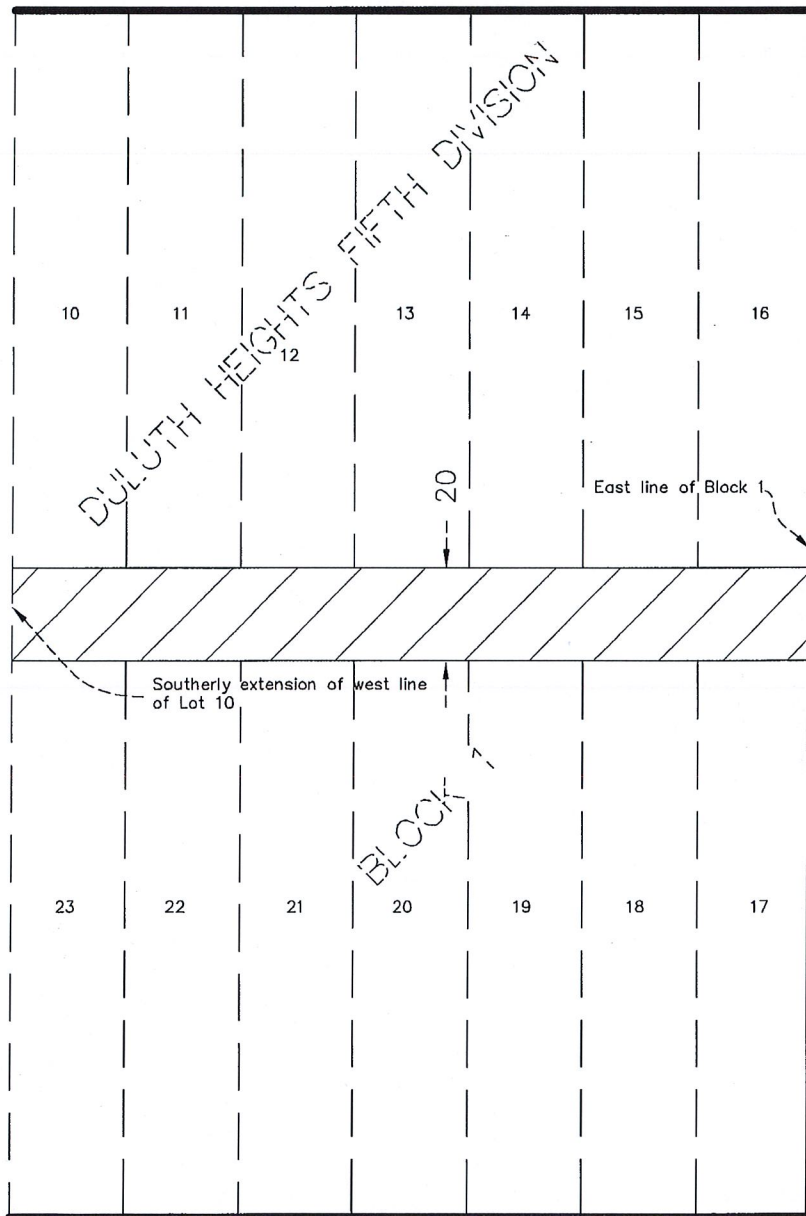
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Description Sketch for: KWIK TRIP #274

W CENTRAL ENTRANCE
(formerly platted as Palmetto Street)

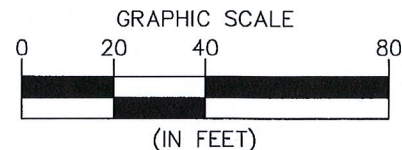


Proposed Vacation Area

S ARLINGTON AVENUE
(formerly platted as Cedar Street)

PROPOSED VACATION:

That part of the 20 foot wide alley as dedicated in Block one, DULUTH HEIGHTS FIFTH DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, lying westerly of the east line of Block one and easterly of the southerly extension of west line of Lot 10 of said Block 1.



E PALM STREET

CERTIFICATION:

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the State of Minnesota.

Dated: 4/17/14

Signed: Carlson McCain, Inc.

By:

Kurt M. Kisch, Professional Land Surveyor
License No. 23968
State of Minnesota

**Carlson
McCain**

ENVIRONMENTAL • ENGINEERING • SURVEYING

City Engineer

C-7

Petition to Vacate Street, Alley, or Utility Easement

Name: Kwik Trip, Inc.

Description of street, alley, or easement to vacate: The east approximately 175 feet of the alley running between Oregon Avenue and South Arlington Avenue running parallel and between West Central Entrance and West Palm Street.

My request for this vacation is to (indicate purpose of vacation):

Redevelopment of property to Kwik Trip Store.

The City of Duluth will not need this street, alley, or easement in the future because:

This section of Alley will be replaced by 20 x 125 foot Alley that will run out to West Palm Street.

PLEASE TAKE NOTICE: Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Council to vacate the street, alley, or easement described in the attached legal description.

This petition is made upon the following facts and reasons (Identify the factual basis and reasons supporting the petition) ¹:

- 1) Redevelopment of property into Kwik Trip Store operation.
- 2) Creation of 35 new jobs.
- 3) Use and rezoning is consistent with future Land Use Plan.
- 4) Safer and less congestion for Alley to connect with West Palm Street than to Arlington Avenue.

This petition is supported by a majority of the person(s) who own a majority of the lineal frontage of the land abutting upon the portion of the public easement proposed to be vacated. A copy of the signatures of these persons is attached hereto and made a part hereof. ²

The petitioner(s) agree to provide the city with a plat of the easement(s) as required by Section 50-37.6B(3) of the Duluth City Code upon approval of the vacation. We understand that the vacation cannot occur without the submission of the required plat. We understand that the cost of producing the plat is the responsibility of the petitioner(s). We also understand that the approval will lapse and be of no effect if the plat and clerk certification is not recorded with the county recorder within 90 days after final approval.

Signature(s):

Scott J. Tegen CFO

Date:

4-3-2014

Notice: This is public data.

¹ In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.

² If a property is owned in joint tenancy or by tenants in common, each individual with an ownership interest will be counted to determine if a majority of owners have signed the petition. An owner cannot sign for another owner unless legally authorized to do so, i.e. power of attorney, trustee, or court approved guardianship or conservatorship.

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We, the undersigned, do hereby request that the City of Duluth consider vacating: East 175 feet of Alley between Oregon & Arlington

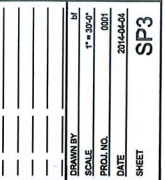
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C-12

 STORES		 STORES	
Kwik Trip, Inc. P.O. BOX 2107 SHEPHERD LA CROSSE, WI 54602-2107 PH. (608) 781-9888 FAX (608) 781-9800		Kwik Trip, Inc. P.O. BOX 2107 SHEPHERD LA CROSSE, WI 54602-2107 PH. (608) 781-9888 FAX (608) 781-9800	





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